



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 2103

DATE SCANNED 6/22/10

SCANNER NO. 2

SCAN OPERATOR SES

10092651064



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

2009 SEP 10 P 12:09  
September 10, 2009

MEMORANDUM

**SENSITIVE**

TO: THE COMMISSION

THROUGH: ROBERT HICKEY  
STAFF DIRECTOR *PH for PH.*

FROM: JOHN D. GIBSON *gjh*  
CHIEF COMPLIANCE OFFICER

PATRICIA CARMONA *PC*  
ASSISTANT STAFF DIRECTOR  
REPORTS ANALYSIS DIVISION

BY: NATALIYA IOFFE/RHIANNON MAGRUDER *RM*  
COMPLIANCE BRANCH

SUBJECT: REASON TO BELIEVE RECOMMENDATION – 2009 JULY  
QUARTERLY REPORT FOR THE ADMINISTRATIVE FINE PROGRAM

Attached is the name of a political committee and its treasurer who failed to file the 2009 July Quarterly Report in accordance with 2 U.S.C. 434(a). The July Quarterly Report was due on July 15, 2009.<sup>1</sup>

The committee listed in the attached RTB Circulation Report failed to file the report. In accordance with the schedule of civil money penalties for reports at 11 CFR § 111.43, the committee should be assessed the civil money penalty highlighted on the attached circulation report.

**Recommendation**

1. Find reason to believe that the political committee and its treasurer listed on the RTB Circulation Report violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the RTB Circulation Report.
2. Send the appropriate letter.

<sup>1</sup> The committee represents a candidate that participated in the 2009 Special Runoff in California's 32<sup>nd</sup> Congressional District. The committee was required to file a 2009 July Quarterly Report (Q2) covering 6/25/09 – 6/30/09 (6 days). An estimated level of activity was calculated using a per-diem average by multiplying the previous activity reported for the 2009-2010 election cycle (\$247,341) by 8.5% (6 days required in Q2 / 70 days reported in 2009-2010 election cycle).

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Federal Election Commission  
Reason to Believe Circulation Report  
2009 JULY QUARTERLY Not Election Sensitive 07/15/2009 H\_S\_P

| AF#  | Committee ID | Committee Name       | Candidate Name | Treasurer        | Threshold | PV | Receipt Date | Days Late | LOA            | RTB Penalty |
|------|--------------|----------------------|----------------|------------------|-----------|----|--------------|-----------|----------------|-------------|
| 2103 | C00461079    | BETTY CHU 4 CONGRESS | CHU, BETTY     | BRIAN THOMAS CHU | \$247,341 | 0  |              | Not Filed | \$21,200 (est) | \$550       |

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Reason To Believe Recommendation - ) AF 2103  
2009 July Quarterly Report for the )  
Administrative Fine Program )

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby  
certify that on September 11, 2009, the Commission decided by a vote of 6-0 to  
take the following actions in AF 2103:

1. Find reason to believe that Betty Chu 4 Congress and Brian Thomas Chu, treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be in the amount of \$550.
2. Send the appropriate letter.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther and  
Weintraub voted affirmatively for the decision.

Attest:

September 11, 2009  
Date

Mary W. Dove  
Mary W. Dove  
Secretary of the Commission

\_\_\_\_\_

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

September 16, 2009

Brian Thomas Chu as Treasurer  
Betty Chu 4 Congress  
645 Barnum Way  
Monterey Park, CA 91754

C00461079  
AF#: 2103

Dear Mr. Chu:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a July Quarterly Report of Receipts and Disbursements every calendar year. This report, covering the period through June 30th, shall be filed no later than July 15th. 2 U.S.C. § 434(a). Records at the Federal Election Commission ("FEC") indicate that this report was not filed within thirty (30) days of the due date. You should file this report if you have not already done so.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 2 U.S.C. § 434(a). 2 U.S.C. § 437g(a)(4). On September 11, 2009, the FEC found that there is reason to believe ("RTB") that Betty Chu 4 Congress and you as treasurer violated 2 U.S.C. § 434(a) by failing to file timely this report on or before July 15th. Based on the FEC's schedules of civil money penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$550. Please see the attached copy of the Commission's administrative fine regulations at 11 C.F.R. §§ 111.30-111.46. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 C.F.R. § 111.34. Your payment of \$550 is due within forty (40) days of the finding, or by October 21, 2009, and is based on these factors:

Election Sensitivity of Report: Not Election Sensitive  
Level of Activity: \$21,200  
Number of Days Late: Not Filed  
Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

**1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty**

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found at the top of page 1 under your committee's identification number, to the FEC's Office of Administrative Review, 999 E Street,

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NW, Washington, DC 20463. Your response must be received within forty (40) days of the Commission's RTB finding, or October 21, 2009. 11 C.F.R. § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 C.F.R. § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 C.F.R. § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 C.F.R. § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 C.F.R. § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. district court under 2 U.S.C. § 437g. 11 C.F.R. § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

## **2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge**

If you do not pay the calculated civil money penalty and do not or submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Betty Chu 4 Congress and you as treasurer violated 2 U.S.C. § 434(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 C.F.R. § 111.45.

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**3. If You Choose to Pay the Civil Money Penalty**

If you should decide to pay the calculated civil money penalty, send the enclosed remittance form, along with your payment, to the FEC at the address on page 4. Upon receipt of your payment, the FEC will send you a final determination letter.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 2 U.S.C. § 437g(a)(2). It will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and 437g(a)(12)(A) until it is placed on the public record in accordance with 11 C.F.R. § 111.42, unless you notify the FEC in writing that you wish the matter to be made public.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Rhiannon Magruder in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Steven T. Walther  
Chairman

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**ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at RTB is \$550 for the 2009 July Quarterly Report.

Please mail this remittance with a check or money order made payable to the Federal Election Commission to the following address:

Federal Election Commission  
P.O. Box 979058  
St. Louis, MO 63197-9000

If you choose to send your remittance and payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox  
FEC #979058  
1005 Convention Plaza  
Attn: Government Lockbox, SL-MO-C2GL  
St. Louis, MO 63101

The remittance and your payment are due by October 21, 2009. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

**PAYMENTS BY PERSONAL CHECK**

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**  
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FOR: Betty Chu 4 Congress

FEC ID#: C00461079

AF#: 2103

PAYMENT DUE DATE: October 21, 2009

PAYMENT AMOUNT DUE: \$550

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

2009 NOV 18 A 10:51  
FEDERAL ELECTION  
COMMISSION  
SEC. 101

November 18, 2009

MEMORANDUM

**SENSITIVE**

TO: THE COMMISSION

THROUGH: ALEC PALMER  
ACTING STAFF DIRECTOR *AP*

FROM: JOHN D. GIBSON *JDG*  
CHIEF COMPLIANCE OFFICER

PATRICIA CARMONA *PC*  
ASSISTANT STAFF DIRECTOR  
REPORTS ANALYSIS DIVISION  
*NRG*

BY: NATALIYA IOFFE/RHIANNON MAGRUDER/SARI PICKERALL  
COMPLIANCE BRANCH *em JP*

SUBJECT: ADMINISTRATIVE FINE PROGRAM – FINAL DETERMINATION  
RECOMMENDATION FOR THE 2009 JULY QUARTERLY REPORT

Attached is a list identifying a political committee and its treasurer against which the Commission has found reason to believe (RTB) and assessed a proposed civil money penalty calculated at RTB for failure to file or failure to timely file the 2009 July Quarterly Report. The committee has not paid the civil money penalty requested at RTB and has been given at least forty (40) days from the date of the Commission's RTB finding to remit payment.

In accordance with 11 CFR § 111.40, the Commission shall send a final determination notice to those respondents that have not paid the civil money penalty.

For your information, Betty Chu 4 Congress (AF 2103) filed the 2009 July Quarterly Report after the RTB finding and disclosed a level of activity which would result in a lowered civil money penalty. The committee disclosed total receipts and disbursements of \$4,398 (previously estimated to be \$21,200), thus the fine would be lowered from \$550 to \$250.

**RAD Recommendation**

- (1) Make final determination that the political committee and its treasurer on the attached report violated 2 U.S.C. § 434(a) and assess the final civil money penalty so indicated.
- (2) Send the appropriate letter.

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11/18/2009 9:26 AM

Federal Election Commission  
FD Circulation Report Fine Not Paid  
2009 JULY QUARTERLY Not Election Sensitive 07/15/2009 H\_S\_P

| AF#  | Committee Name       | Candidate Name | Committee ID | Treasurer        | Receipt Date | Days Late | LOA     | PV | RTB Date   | RTB Penalty | Days Since RTB | FD Penalty |
|------|----------------------|----------------|--------------|------------------|--------------|-----------|---------|----|------------|-------------|----------------|------------|
| 2103 | BETTY CHU 4 CONGRESS | CHU, BETTY     | C00461079    | BRIAN THOMAS CHU | 09/18/2009   | Not Filed | \$4,398 | 0  | 09/11/2009 | \$550       | 68             | \$250      |

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
)  
Administrative Fine Program - Final ) AF 2103  
Determination Recommendation for the )  
2009 July Quarterly Report: Betty Chu 4 )  
Congress and Brian Thomas Chu, )  
Treasurer )

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby  
certify that on November 19, 2009, the Commission decided by a vote of 6-0 to  
take the following actions in AF 2103:

1. Make final determination that Betty Chu 4 Congress and Brian Thomas Chu, Treasurer, violated 2 U.S.C. § 434(a) and assess the final civil money penalty in the amount of \$250.
2. Send the appropriate letter.

Commissioners Baucry, Hunter, McGahn II, Petersen, Walther, Weintraub  
voted affirmatively for the decision.

Attest:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mary W. Dove  
Secretary of the Commission

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 20, 2009

Brian Thomas Chu as Treasurer  
Betty Chu 4 Congress  
645 Barnum Way  
Monterey Park, CA 91754

C00461079  
AF#: 2103

Dear Mr. Chu:

On September 11, 2009, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Betty Chu 4 Congress and its treasurer violated 2 U.S.C. § 434(a) for filing late or failing to file the 2009 July Quarterly Report. By letter dated September 16, 2009, the Commission sent notification of the RTB finding that included a civil money penalty calculated at the RTB stage of \$550 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. Within 40 days of the FEC's RTB finding, you were required to either transmit payment of the calculated civil money penalty or submit a written response challenging either the RTB finding or the calculated civil money penalty. The amount of the civil money penalty has been changed to reflect the actual level of activity of your 2009 July Quarterly Report.

The FEC did not receive payment of the calculated civil money penalty or a written response within the time permitted. The FEC made a final determination on November 19, 2009 that you as treasurer and Betty Chu 4 Congress violated 2 U.S.C. § 434(a) and assessed a civil money penalty in the amount of \$250 in accordance with 11 C.F.R. § 111.43. The civil money penalty is based on these factors:

Election Sensitivity of Report: Not Election Sensitive  
Level of Activity: \$4,398  
Number of Days Late: Not Filed  
Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

**1. If You Choose to Appeal the Final Determination and/or Civil Money Penalty**

If you choose to appeal the final determination, you should submit a written petition, within 30 days of receipt of this letter, to the district court of the United States for the district in which the committee or treasurer reside, or transact business, requesting that the final determination be modified or set aside. See 2 U.S.C. § 437g(a)(4)(C)(iii). Your failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver of

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the respondents' right to present such argument in a petition to the district court under 2 U.S.C. § 437g. 11 C.F.R. § 111.38.

**2. If You Choose Not to Pay the Civil Money Penalty and Not to Appeal**

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA") as amended by the Debt Collection Improvement Act of 1996 ("DCIA"), 31 U.S.C. § 3701 *et seq.* If you do not pay this debt within 30 days (or file a written petition to a federal district court - see below), the Commission will transfer the debt to the U.S. Department of the Treasury ("Treasury") for collection. Within 5 days of the transfer to Treasury, Treasury will contact the debtor and request payment. Treasury currently charges a fee of 28% of the civil money penalty amount for its collection services. The fee will be added to the amount of the civil money penalty that you owe. Should Treasury's attempts fail, Treasury will refer the debt to a private collection agency ("PCA"). If the debt remains unpaid, Treasury may recommend that the Commission refer the matter to the Department of Justice for litigation.

**3. If You Choose to Pay the Civil Money Penalty**

If you should decide to pay the civil money penalty, send the enclosed remittance form, along with your payment, to the address on page 3 within 30 days of receipt of this letter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. The file will be made a part of the public record pursuant to 11 C.F.R. § 111.42(b). Although the file must be placed on the public record within thirty (30) days from the date of the Commission's notification, this could occur at anytime following certification of the Commission's vote.

If you have any questions regarding the payment of the civil money penalty, please contact Rhiannon Magruder at Federal Election Commission, 999 E St., NW, Washington, DC 20463, or our toll free number (800) 424-9530 (at the prompt, press 5) or (202) 694-1130.

On behalf of the Commission,



Steven T. Walther  
Chairman

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## ADMINISTRATIVE FINE PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the civil money penalty is \$250 for the 2009 July Quarterly Report.

This penalty should be paid by check or money order made payable to the Federal Election Commission. It should be sent by mail to:

Federal Election Commission  
PO Box 979058  
St. Louis, MO 63197-9000

If you choose to send your payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox  
FEC #979058  
1005 Convention Plaza  
Attn: Government Lockbox, SL-MO-C2GL  
St. Louis, MO 63101

The form and payment are due within 30 days of receipt of this letter.

### Payments by Personal Check

Personal checks will be converted into electronic funds transfers (EFTs). Your account will be electronically debited for the amount on the check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**

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FOR: Betty Chu 4 Congress

FEC ID#: C00461079

AF#: 2103

PAYMENT AMOUNT DUE: \$250

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QUALITY IS OUR PRIORITY FOR LOCKBOX 9058  
SEQ# 001 \$ 0000630000 BA# 1 05-03-10 20 3



Waters Building G

PAY TO THE ORDER OF FEC

Six thousand three hundred

\$ 6,300.00

DOLLARS

MEMO FEC # C00461079  
AF# 207/2103

8375

4/29/10

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FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 2102

DATE SCANNED 6/22/10

SCANNER NO. 2

SCAN OPERATOR SES

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